

Raymond Martin #08191-025

Name and Prisoner Number/Alien Registration Number

U.S. Penitentiary-Tucson

Place of Confinement

P.O. Box 24550

Mailing Address

Tucson AZ 85734

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Raymond Martin

(Full Name of Petitioner)

Petitioner,

vs.

United States Of America(Name of Warden, Jailor or authorized person
having custody of Petitioner)

Respondent.

CV 18-0434 TUC JGZ-LCK
CASE NO. _____
(To be supplied by the Clerk)

**PETITION UNDER 28 U.S.C. § 2241
FOR A WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL CUSTODY**

PETITION

1. What are you challenging in this petition?

- ☐ Immigration detention
- ☐ Bureau of Prisons sentence calculation or loss of good-time credits
- ☐ Probation, parole or supervised release
- ☒ Other (explain): Safety Hatch Pursuant to 28 USC §2255(f)

2. (a) Name and location of the agency or court that made the decision you are challenging: _____

United States Court of Appeals for the Seventh Circuit(b) Case or opinion number: 17-1390, 2017 U.S.App. LEXIS 17002(c) Decision made by the agency or court: Appeal Denied

(d) Date of the decision: July 11, 2017

3. Did you appeal the decision to a higher agency or court? Yes ☒ No ☐

If yes, answer the following:

(a) First appeal:

(1) Name of the agency or court: U.S. Supreme Court

(2) Date you filed: _____

(3) Opinion or case number: 2018 U.S. LEXIS 614 199 L.Ed. 2d 579

(4) Result: Denied

(5) Date of result: January 8, 2018

(6) Issues raised: Defendant was not armed with a handgun. If Defenant had been armed with a firearm, it would not have been in furtherance of drug crime. It would have been in the furtherance of a county's duly elected sheriff.

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Second appeal:

(1) Name of the agency or court: N/A

(2) Date you filed: N/A

(3) Opinion or case number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(c) Third appeal:

(1) Name of the agency or court: N/A

(2) Date you filed: N/A

(3) Opinion or case number: _____ N/A

(4) Result: _____ N/A

(5) Date of result: _____ N/A

(6) Issues raised: _____ N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

4. If you did not appeal the decision to a higher agency or court, explain why you did not: _____

_____ N/A

5. Other than the appeals listed above, have you filed any other petitions, applications or motions concerning the issues raised in this petition? Yes ☒ No ☐

If yes, answer the following:

(a) Name of the agency or court: U.S. DISTRICT COURT SOUTHERN DIST OF ILLINOIS

(b) Date you filed: FEBRUARY 6, 2014

(c) Opinion or case number: 554 Fed Appx 515

(d) Result: Denied

(e) Date of result: January 19, 2017

(f) Issues raised: Ineffective Assistance of Counsel

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

6. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available administrative remedies on each ground on which you request action by the federal court.

**GROUND ONE: THE SIXTH CIRCUIT HAS FAILED TO ADDRESS THE PETITIONER'S
ARGUMENT REGARDING THE 924(c) CHARGES**

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):
Petitioner was charged with two counts of possession of a firearm in the
furtherance of a drug crime. There was, nor is, sufficient evidence to
support these charges. The government submitted an untested photograph
into evidence that showed only the "handle" of something covered by the
apparel the Petitioner was wearing. None of the weapons taken from the
Petitioner during several searches, forensically matched the "handle" of
the item on Petitioner's person when the photograph was taken. Further,
the photograph was never authenticated for the purpose of evidence.
Additionally, even if the "handle" was proven to be a handgun or firearm
the question of furtherance has not been reached. Was the item used in
the furtherance of a drug crime? OR Was the item used in the furtherance
of Petitioner's job as the duly elected sheriff of the county? Since
there is no evidence that Petitioner used, or attempted to use said item
to, in any way, facilitate the drug crime, the item could only be attri-
buted to Petitioner's peacekeeping duties as the duly elected sheriff.
To this date, the Sixth Circuit has failed to address this issue even
though the issue has been properly brought on Appeal and on Motion pur-
suant to 28 U.S.C. §2255.

(b) Did you exhaust all available administrative remedies relating to Ground One? Yes ☒ No ☐

(c) If yes, did you present the issue to:

☐ The Board of Immigration Appeals

☐ The Office of General Counsel

☐ The Parole Commission

☒ Other: Sixth Circuit Dist Ct and Appeals Court

(d) If you did not exhaust all available administrative remedies relating to Ground One, explain why:
 N/A

Please answer these additional questions about this petition:

7. Are you challenging your conviction or sentence in any of the grounds raised above? Yes ☒ No ☐
 (Claims challenging a federal conviction or sentence may only be raised in a motion under 28 U.S.C. § 2255, unless the § 2255 motion is legally inadequate or ineffective.)

If yes, answer the following:

(a) Have you filed a motion under 28 U.S.C. § 2255? Yes ☒ No ☐

If yes, answer the following:

(1) Name of court: U.S. Dist. Court for the Southern Dist of Illinois

(2) Case number: 09-cr-40037-JPG

(3) Opinion or case number: 2017 U.S. Dist. LEXIS 7635

(4) Result: Denied

(5) Date of result: January 19, 2017

(6) Issues raised: Ineffective Assistance of Counsel, Insufficiency of the evidence regarding 924(c) issues

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Explain why the remedy under § 2255 is inadequate or ineffective: The Petitioner has raised this issue on 2255 and on Appeal and the issue has not yet been resolved.

8. If this case concerns immigration removal proceedings, answer the following: N/A

(a) Date you were taken into immigration custody: _____

(b) Date of removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals? Yes ☐ No ☐

(1) Date you filed: _____

(2) Case number: _____

(3) Result: _____ N/A _____

(4) Date of result: _____ N/A _____

(5) Issues raised: _____ N/A _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(d) Did you file an appeal with the federal court of appeals? Yes ☐ No ☐

(1) Name of the court: _____ N/A _____

(2) Date you filed: _____ N/A _____

(3) Case number: _____ N/A _____

(4) Result: _____ N/A _____

(5) Date of result: _____ N/A _____

(6) Issues raised: _____ N/A _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

9. Petitioner asks that the Court grant the following relief: Petitioner prays for an evidentiary
as to the sufficiency of the evidence regarding the two counts of possession
of a firearm.

or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corpus cases.)

I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, day, year).

Signature of Petitioner

Signature of attorney, if any

Date